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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of

TOHNISHI, et al.

Group Art Unit: 1624

Appln. No.: 10/088,543

Examiner: Balasubramanian, ²⁸⁰³

Filed: March 19, 2002

Title: AROMATIC DIAMIDE DERIVATIVE OR SALT THEREOF,
AGROHORTICULTURAL COMPOSITION AND METHOD FOR
USE THEREOF

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January 24, 2003

RESPONSE

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

In response to the Office Action dated June 10, 2002, reconsideration is respectfully requested.

Specifically, in response to the restriction requirement under 35 USC 121 and 35 USC 372 (this a PCT application which entered the U.S. National Phase), the applicants hereby elect Group I, with traverse. Group I contains claims 1-6, drawn to compounds of formula I where Q¹, Q², Q³ and Q⁴ are all carbon, namely benzene amide compounds, composition and method of use. The applicants provide the following reasons in support of their traverse.

The Office Action states that the application claims are restricted to the following groups:

Group I, claims 1-6, drawn compound of formula I where Q¹, Q², Q³ and Q⁴ are all carbons, namely substituted benzene amide compound, composition and method of use.

Group II, claims 1-6, drawn compound of formula I where one of the pair Q¹-Q², or Q³-Q⁴ are nitrogens and all other two pairs are carbons, namely substituted isomeric pyridazine amide compound, composition and method of use.

Group III, claims 1-6, drawn compound of formula I where Q¹ and Q³ or Q² and Q⁴ are nitrogens and the other carbons, namely substituted pyrimidine amide compound, composition and method of use.

Group IV, claims 1-6, drawn compound of formula I where Q¹ and Q⁴ are both nitrogen and Q² and Q³ are carbons, namely substituted pyrazine amide compound, composition and method of use.

Group V, claims 1-6, drawn compound of formula I where Q¹, Q², Q³ or Q², Q³ are all nitrogen and the other a carbon, namely substituted 1,2,3-tirazine amide compound, composition and method of use.

Group VI, claims 1-6, drawn compound of formula I where Q¹, Q², Q⁴ or Q¹, Q³, Q⁴ are nitrogen and the other a carbon, namely substituted 1,2,4-tirazine amide compound, composition and method of use.

Group VII, claims 1-6, drawn compound of formula I where Q¹, Q², Q³ and Q⁴ are all nitrogens, namely substituted 1,2,3,4-tetrazine amide compound, composition and method of use.

The applicants respectfully submit that all the inventions listed as Groups 1-VII relate to a single general inventive concept under PCT Rule 13.1. This is because, under PCT Rule 13.2, they possess the same or corresponding special technical features.

In support of the applicants' traverse of the restriction requirement, the Examiner is asked to review the International Search Report (ISR) which issued for

this application (COPY attached for the convenience of the Examiner). **The ISR shows that no lack of unity of invention was found in this application.**

As stated in MPEP 1844, the ISR must indicate whether the search was restricted or not for, among other reasons, “lack of unity of invention.” In the present application, no lack of unit of invention was determined.

Furthermore, the Examiner is asked to review the International Preliminary Examination Report (IPER) which issued for this application (copy attached for the convenience of the Examiner). **The IPER shows that no lack of unity of invention was found in this application.**

As stated in MPEP 1875, the Examiner may when preparing the IPER consider whether the international application complies with the requirement of unity of invention.

Further, 37 CFR 1.488(a) states that:

“Before establishing any written opinion or the international preliminary examination report, the International Preliminary Examining Authority will determine whether the international application complies with the requirement of unity of invention as set forth in 37 CFR 1.475.”

Of paramount importance here, is the fact that the International Preliminary Examining Authority did not find a lack of unity. The Authority did not impose a restriction requirement.

MPEP 1875 points out that in most instances, lack of unity of invention will have been noted and reported upon by the International Searching Authority which will have drawn up the International Search Report. Thus, the unity of invention of the present application has been thoroughly investigated once and then thoroughly

investigated again during preparation of 1) the International Search Report and 2) the International Preliminary Examination Report.

In the present application, no lack of unity of invention was determined.

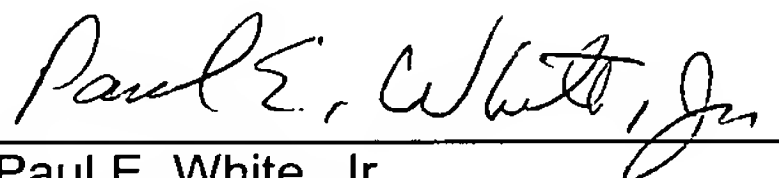
The applicants emphasize that the unity of invention of the present application has been thoroughly investigated once and then thoroughly investigated again during preparation of 1) the International Search Report and 2) the International Preliminary Examination Report. No lack of unity of invention was determined during either of the two investigations.

Accordingly, the applicants request that no lack of unity of invention be found in the present application and all present claims be considered in this application. The applicants respectfully request that the restriction requirement be withdrawn.

Favorable consideration of this application are respectfully requested.

Respectfully submitted,

Manelli Denison and Selter, PLLC



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1624

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 46-168

In re patent application of

TOHNISHI et al.

Group Art Unit: 1624

Serial No. 10/088,543

Examiner: Balasubramanian, V.

Filed: March 19, 2002

For: AROMATIC DIAMIDE DERIVATIVE OR SALT THEREOF, AGROHORTICULTURAL
COMPOSITION AND METHOD FOR USE THEREOFTRANSMITTAL OF RESPONSEAssistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Transmitted herewith is an Response in the above-captioned application. The fee has been calculated as shown below. (Small entity fees indicated in parentheses.)

CLAIMS AS AMENDED						
(1)	(2)	(3)	(4)	(5)	(6)	(7)
	Claims Remaining After Amendment		Highest Number Previously Paid For		Extra Claims	Rate
Total Claims	11	-	20	0	18.00	0
(Small Entity)					(9.00)	
Independent claims	1	-	3	0	84.00	0
(Small Entity)					(42.00)	
Multiple Dependent	0	-	0	0	280.00	0
(Small Entity)					(140.00)	
Extension of Time	One Month		Two Months		Three Months	
Fee	\$110		\$410		\$930	0
(Small Entity)	(\$55)		(\$205)		(\$465)	0
Total						0

The above fees are believed to be correct. However, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0687 for which purpose this paper is submitted in duplicate.

Respectfully submitted,

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